



# UNITED STATES PATENT AND TRADEMARK OFFICE

ny

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,347	07/14/2000	JOHANNES REINMULLER	HUBR-1162-PF	2655

7590 07/26/2004  
FULBRIGHT & JAWORSKI  
666 FIFTH AVENUE  
NEW YORK, NY 10103

EXAMINER
----------

HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No. 09/600,347	Applicant(s) REINMULLER, JOHANNES	
	Examiner Victor K. Hwang	Art Unit 3764	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 18 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

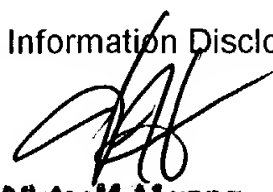
Claim(s) allowed: None.

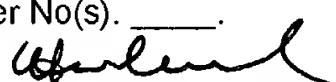
Claim(s) objected to: None.

Claim(s) rejected: 6, 17, 18, 23 and 24.

Claim(s) withdrawn from consideration: 1-5, 7-16, 19-21, 25 and 26.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
**Victor K. Hwang**  
Patent Examiner

  
**NICHOLAS D. LUCCHESI**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Continuation of 3. Applicant's reply has overcome the following rejection(s): objection under 35 USC 132 to introduction of new matter into the disclosure.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. In response to Applicant's request under 37 CFR 1.104(d)(2), it is believed that the WERDING reference itself is sufficient to support the use of pressure of about 6 atmospheres since the rejection is not relying on personal knowledge of the employee. WERDING discloses at col. 1, lines 14-19 that massage at "about 6 atmospheres" have been used to obtain the best results to date and that pain may involved. In response Applicant's argument that WERDING achieves his goals by percussion with lateral crushing and not by regional transdermal pressure, the Examiner fails to see the difference between the two methods. The Examiner considers application of "regional transdermal pressure" to broadly encompass percussion with lateral crushing. Applicant's specification discloses the pressure to be applied by various means including fluid pressure from a jet, "a roller is particularly preferably used as the shaped article" (pg. 9, lines 18-19), and "a plurality of parallel-running wheels of conical cross section" (pg. 9, lines 22-24). It would seem that the latter two means of pressure application constitute lateral crushing.